

CITY AND COUNTY OF HONOLULU ADMINISTRATIVE RULES

TITLE 20

DEPARTMENT OF PLANNING AND PERMITTING

CHAPTER \_\_\_\_

RULES AND REGULATIONS GOVERNING SHORT TERM RENTALS

Xxxxxxxxxx xx, 2020

Summary

Title 20, Chapter \_\_, City and County of Honolulu Administrative Rules, entitled "Rules and Regulations Governing Short Term Rentals" is adopted.

CITY AND COUNTY OF HONOLULU ADMINISTRATIVE RULES

TITLE 20

DEPARTMENT OF PLANNING AND PERMITTING

CHAPTER\_\_

RULES AND REGULATIONS GOVERNING  
SHORT TERM RENTALS

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SUBCHAPTER 1

GENERAL PROVISIONS

**§20-\_\_-1 Purpose.** The purpose of these rules is to regulate the operation and advertising of bed and breakfast homes and transient vacation units within the City and County of Honolulu as provided in Chapter 21, Revised Ordinance of the City and County of Honolulu, also known as the Land Use Ordinance (“LUO”); to permit bed and breakfast homes and transient vacation units in certain zoning districts with limitation; and to require a registration number be included in certain short term rental advertising.

[Eff. ] (Auth: RCH §4-105.4, §6-1503, ROH §§21-1.30 and §21-5.730)  
(Imp: )

**§20-\_-2 Definitions.** The words, phrases, and abbreviations defined below shall have the same meaning throughout these rules, unless otherwise specifically provided by law, specifically stated otherwise in these rules, or clearly inappropriate in the context.

“Bed and breakfast home” (“B&B”) means the same as provided in LUO Section 21-10.1.

“Bed and breakfast home certificate of registration” (“B&BCR”) means a certificate issued by DPP for a bed and breakfast home after it is registered with DPP and approved for operation pursuant to LUO Section 21-5.730.

“Director” means the director of the department of planning and permitting.

“DPP” means the City and County of Honolulu Department of Planning and Permitting.

“Hotel” means a “hotel” as defined in LUO Section 21-10. 1 and permitted under LUO Table 21-3 and includes nonconforming hotels as determined by the Director

“LUO” means Chapter 21, Revised Ordinances of the City and County of Honolulu, also known as the Land Use Ordinance;

“Natural person” means a living human being in their personal and individual capacity. Legal and business entities are not natural persons.

“Nonconforming Hotel” means a hotel use of a building(s) which was previously lawful but which does not conform to the applicable use regulations of the district in which it is located, either on October 22, 1986 or as a result of any subsequent amendment to this chapter, or a zoning map amendment.

“Nonconforming Use Certificate” or “NUC” means a certificate issued by DPP for the continued operation of a nonconforming transient vacation unit (TVU) pursuant to LUO Section 21-4.110-1 or a certificate issued by DPP for the continued operation of a nonconforming bed and breakfast home pursuant to LUO Section 21-4.110-2. Previously issued nonconforming use certificates that have expired based on their non-renewal or an operator’s failure to comply with applicable requirements are excluded from this definition.

“Project” for the purposes of these rules means multi-family dwellings within a single condominium property regime declaration. Project shall not apply to single family dwellings that are not identified within a condominium property regime declaration.

“Owner” means the recorded owner of land in fee simple.

“ROH” means the Revised Ordinances of City and County of Honolulu 1990.

“Short-term rental” (“STR”) means a bed and breakfast or transient vacation unit that is advertised, solicited, offered, or provided, or a combination of any of the foregoing, for compensation to transient occupants for less than 30 days.

“Short-term Rental Unit Permit (“STRUP”) means a short-term rental unit permit as provided in §20-\_-6 of these rules.

“Transient Vacation Unit” (“TVU”) means the same as provided in LUO Section 21-10.1.

“Unpermitted bed and breakfast home” means the same as provided in

LUO Section 21-5.730(d)(1).

“Unpermitted transient vacation unit” means the same as provided in LUO Section 21-5.730(d)(1).

[Eff: ] (Auth: LUO §21-5.730, §21-10.1, §21-4.110) (Imp: )

**§20-\_\_-3 Severability.** If any chapter, section, subsection, sentence, clause, phrase, or portion of these rules is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof. [Eff: ] (Auth: RCH, ROH) (Imp: )

## SUBCHAPTER 2

### REGULATIONS

**§20-\_-4 Where allowed.** (a) STRs are allowed as permitted uses subject to compliance of LUO Article 5, Specific Use Development Standards, as provided in LUO Table 21-3.

(b) STRs are allowed with a valid NUC issued pursuant to LUO Section 21.4-110.1 or 21-4.110-2.

[Eff: ] (Auth: ROH §§21-4-110.1 21-4.11-.2 21-5.730(a) and (b) and Table 21-3 Master Use Table) (Imp: )

### **§20-\_-5 Registration and Renewals.**

(a) Required separation between STRs. Except for in the resort district, resort mixed use precinct of the Waikiki Special District, and the A-1 low-density apartment district and A-2 medium-density apartment district within a master planned resort development, a B&B may not be located within a 1,000-foot radius of another B&B or TVU. For the purposes of the required 1,000-foot separation between B&Bs and TVUs:

- (1) The 1,000-foot radius shall be measured laterally from each property line; vertical distance shall not be considered in calculating the distance between B&Bs and TVUs;
- (2) The 1,000-foot separation requirement shall not apply to B&Bs or TVUs located in the same multi-family dwelling;
- (3) The 1,000-foot separation requirement shall not be applied to prohibit existing B&Bs and/or TVUs with NUCs from operating pursuant to their NUCs;

- (4) The 1,000-foot separation requirement shall apply to prohibit new B&Bs that will be located within 1,000 feet of an existing B&B or TVU operating pursuant to a NUC; and
- (5) B&Bs and TVUs that are operating without a NUC or certificate of registration shall not be considered for the purposes of evaluating the compliance of a proposed B&B with the 1,000-foot separation requirement.
  - (A) The applicant for a B&B certificate of registration shall bear the burden of establishing that a proposed B&B is not located within 1,000 feet of another B&B or TVU.
  - (B) Information regarding the location of registered B&Bs, and B&Bs and TVUs operating pursuant to NUCs may be obtained from DPP at \_\_\_\_\_.

(b) Applications for B&BCR will be accepted for processing from August 1 to August 30 of each calendar year. The Director shall determine eligibility and approval of applications by September 30 of the same calendar year. Approved B&BCRs within each development plan area shall not exceed the number of units set forth in LUO Section 21-5.730(b)(3)(I).

Documentation authorizing a bed and breakfast home within a multi-family project shall be submitted with the application for B&BCR. An affidavit from the homeowners association or apartment owners association authorizing the use of the units as a bed and breakfast home shall be submitted with the B&BCR application. The total number of bed and breakfast homes must not exceed 50 percent of the total number of residential dwelling units in a project. No later than July 1 of each calendar year, homeowners associations shall identify all short-term rental units authorized within each project, and certify eligibility for each unit under their governing requirements.

(c) Applications for a B&BCR must comply with the requirements set forth in LUO Section 21-5.730(b)(1).

- (1) The Director may reject an application that does not comply with the requirements of LUO Section 21-5.730(b)(3)(I).
- (2) Only one application for a property will be accepted; all other duplicate applications for the same property shall be rejected.
- (3) An application rejected for processing shall be deemed denied.
- (4) Except for applications rejected by the Director, registration and renewal fees are non-refundable.

(d) The order of processing applications for B&BCRs shall be determined by lottery. The lottery shall be held after the application submission deadline. Selection shall be as follows:

- (1) All applications meeting the requirements of LUO Section 21-5.730(b)(1) will be separated by development plan area.
- (2) One application from each development plan area will be selected at random. Those remaining applications in each development plan area that are within 1,000-foot radius of the selected application will be disqualified from further processing.

- (3) Selection will continue in the same manner as provided in (1) and (2) above in each development plan area until the density limit provided in LUO §21-5-730(b)(3)(I) is reached.
- (e) B&BCRs are valid for one year and shall expire on August 30 of each calendar year. Each owner or operator holding a B&BCR may renew their B&BCR by submitting a renewal application between July 1 and July 31 of each calendar year. Renewal applications shall provide the following information:
  - (1) All information required in LUO §21-5.730(b)(2); and
  - (2) An annual report to DPP in hard copy and electronic format that includes:
    - (A) The length of booking and price paid for each B&B.
    - (B) A copy of the registry for the applicable reporting period.
    - (C) Identification of any hosting platforms used to advertise the short-term rental unit.
    - (D) An affidavit stating compliance with the restrictions and standards set forth in LUO section 21-5.730(b)(3) of the ROH.
- (f) The director shall approve the renewal of a B&BCR upon receipt of an application meeting all requirements set forth in this section. The Director may deny the renewal of a B&BCR for good cause as provided in §20-\_\_-5(g).
- (g) Revocation. The Director may revoke a B&BCR at any time for the reasons set forth in LUO Sec. 21-5.730(b)(7). For the purposes of this subsection, good cause to revoke a B&BCR may include, but not be limited to:
  - (1) Failure to respond to noise complaints within a 24-hour period;
  - (2) The receipt of a total of three or more Notice of Violations for violations of the advertising requirements of LUO Sec. 21-5.730(c), whether or not the violations have been corrected; or
  - (3) The Director's determination that the B&BCR is no longer compatible with the adjacent properties.
- (h) The director shall review the number of B&BCRs every two years for the purpose of evaluating the development plan area density limits. If the number of legal B&BCR falls below the density limit imposed by LUO Sec. 21-5.730(b)(i), the Director may conduct further lotteries for that development plan area as provided in subsection (d) above after publishing one public notice of the application period in a newspaper of general circulation within the City and County of Honolulu. [Eff: ] (Auth: ROH §§21-5.730(a) and (b)) (Imp: )

#### **§20-\_\_-6 Registration of other permitted short-term rental units.**

The director may allow short-term rental units that are permitted under the LUO but have not been issued a registration number pursuant to §20-\_\_-5 or a NUC, to register for a short-term rental unit permit ("STRUP") number to be used in advertisements in lieu of listing the address and unit number as required under LUO Section 21-5.730(c)(2). Short-term rental unit permit numbers may be issued to owners and operators of short-term rental units as follows:

- (1) Bed and breakfast homes and transient vacation units that are permitted and approved by the director under LUO Section 21-5.730(a); or
  - (2) Transient vacation units in a multifamily dwelling that the director has determined to be a nonconforming hotel.
- [Eff:           ] (Auth: RCH §4-105.4, §6-1503, ROH §§21-1.30) (Imp:           )

**§20-\_\_-7 Advertising for Short-Term Rentals.** (a) All advertisements of short-term rental units must include the following on the first page of the listing:

- (1) A current B&BCR number, NUC-B&B or NUC-TVU certificate number; or
  - (2) For B&Bs or TVUs permitted and approved under LUO Section 21-5.730(a), or TVUs in a multifamily dwelling that the director has determined to be a nonconforming hotel, either the street address, including apartment number, if applicable, or STRUP number obtained under §20-\_\_-6.
- (b) Pool advertising, or advertisements which offer multiple units for short-term rental must include an electronic link on the first page of the listing that will include the information contained in §20-\_\_-7(a)(1) or (2).
- (c) Advertisements that clearly state that a property is offered for rent for a minimum rental period of 30 days or more shall not be subject to the advertising requirements of LUO Sec. 21-5.730(c). However, advertisements that contain statements or information that conflict with an express 30-day minimum rental period shall be subject to the advertising requirements of LUO Sec. xxx if:
- (1) The statements or information in the advertisement indicate that a property may be rented for less than thirty days; or
  - (2) The statements or information in the advertisement indicate that the price for a rental will be determined by the number of days stayed at the property during a rental period of less than 30 days.

For the purposes of sections (1) and (2) above, the display of a daily rental price alone shall not cause an advertisement to be subject to the advertising requirements of LUO Sec. 21-5.730(c).

- (d) Hotels shall not be subject to this section.
- (e) Owners or operators of STRP units are responsible for the information included in the advertisement. [Eff:           ] (RCH §4-105.4, §6-1503, ROH §§21-1.30 and §21-5.730(c)) (Imp:           )

**§20-\_\_-8 Complaints.** Any person may submit a written complaint to the director reporting a violation of these rules.

- (a) A complaint reporting a suspected violation of these rules shall:
  - (1) Identify the complete address of the bed and breakfast home or transient vacation unit that is the subject of the suspected violation;

- (2) Provide any information and evidence of the suspected violation. Such information and evidence may include, but not limited to, the existence of contracts for less than 30 days, origin of visitor(s), duration of unit occupation, and confirmation of compensation for accommodation;
  - (3) Identify the provision(s) of these rules that the complainant believes are being violated; and
  - (4) Provide the complainant's address or phone number where the director may mail or call with a response to the complaint.
- (b) Within 30 days after receiving a written complaint reporting a violation of the provisions of these rules, the director must provide a written or verbal response to the complainant either:
- (1) Declining jurisdiction over the complaint, in which case the complainant may pursue judicial relief pursuant to HRS Section 46-4(b);
  - (2) Entering a finding of no violation, which will be appealable to the zoning board of appeals pursuant to Charter Section 6-1516; or
  - (3) Advising the complainant that the director has initiated an investigation of the complaint. Eff: \_\_\_\_\_ ] (Auth: LUO §21-5.730(e)  
(Imp: \_\_\_\_\_ )

**§20-\_\_-9 Booking Service; Hosting Platforms**

- (1) The Department shall publish a list of all permitted short term rentals. Beginning September 1, 2021, the list of all permitted short term rentals shall be updated by the Department annually. The list of permitted short term rentals will include:
    - (A) Name and address of all hotels;
    - (B) Name if any and address of all properties where STR are permitted as provided in ROH §21-5.730(a);
    - (C) All NUC;
    - (D) All BBC&S; and
    - (E) STRUP.
  - (2) Booking services or Hosting platforms may reasonably rely upon the Department's current list of permitted short term rentals.
- [Eff: \_\_\_\_\_ ] (Auth: RCH §4-105.4, §6-1503, ROH §§21-1.30 §21-2A.10 §21-5.730(a)) (Imp: \_\_\_\_\_ )



DEPARTMENT OF PLANNING AND PERMITTING

Title 20, Chapter \_\_\_\_\_, , City and County of Honolulu Administrative Rules, Department of Planning and Permitting, Rules and Regulations Governing Short Term Rentals, which were adopted on \_\_\_\_\_, 2021, following a public hearing held on \_\_\_\_\_, 2021, after public notice was given on \_\_\_\_\_, 2021, in the Star Advertiser.

This chapter shall take effect ten (10) days after filing with the Office of the City Clerk.

DEPARTMENT OF PLANNING AND PERMITTING  
CITY AND COUNTY OF HONOLULU

\_\_\_\_\_  
Dean Uchida, Director

\_\_\_\_\_  
RICK BLANGIARDI  
Mayor,  
City and County of Honolulu

Dated \_\_\_\_\_

APPROVED AS TO FORM  
AND LEGALITY:

\_\_\_\_\_  
Deputy Corporation Counsel

Received this \_\_\_\_\_ day of  
\_\_\_\_\_, 2021.

City Clerk

CERTIFICATION

I, DEAN UCHIDA, in my capacity as Director of the Department of Planning and Permitting, City and County of Honolulu, do hereby certify that the foregoing is a full, true and correct copy of Title 20, Chapter \_\_, City and County of Honolulu Administrative Rules, entitled "Rules and Regulations Governing Short Term Rentals", which were adopted on \_\_\_\_\_, following a public hearing held on \_\_\_\_\_, after public notice was given on \_\_\_\_\_, in the Star Advertiser.

\_\_\_\_\_  
Dean Uchida  
Director

Received this \_\_\_\_\_ day of  
\_\_\_\_\_, 2021.

\_\_\_\_\_  
City Clerk